

Notice of Allowability	Application No.	Applicant(s)	
	09/478,598	RAO ET AL.	
	Examiner	Art Unit	
	Kathleen M Kerr	1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/23/04.
2. ☒ The allowed claim(s) is/are 69 and 75-79.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |



Kathleen M Kerr
Primary Examiner
Art Unit: 1652

DETAILED ACTION

Application Status

1. In response to the previous Office action, a final rejection (mailed on September 29, 2004), Applicants filed an after-final response and amendment received on December 23, 2004^{KK} and entered _{1/18/05}. Said amendment cancelled Claims 68 and 71 and amended Claim 69. Thus, Claims 69 and 75-79 are pending in the instant Office action and will be examined herein.

Priority

2. As previously noted, the instant application is granted the benefit of priority for the U.S. non-Provisional Application No. 08/988,015 filed on December 10, 1997.

Withdrawn - Claim Rejections - 35 U.S.C. § 112

3. Previous rejection of Claims 68, 69, 71, and 75-79 under 35 U.S.C. § 112, second paragraph, as being indefinite for the nature of VSP β is withdrawn by virtue of Applicant's amendment limiting VSP β to exactly SEQ ID NO:1.

4. Previous rejection of Claims 68, 69, 71, and 75-79 under 35 U.S.C. § 112, second paragraph, as being indefinite is withdrawn by virtue of Applicant's amendment and the Examiner's reconsideration.

5. Previous rejection of Claims 68 and 71 under 35 U.S.C. § 112, first paragraph, written description, is withdrawn by virtue of Applicant's cancellation of said claims.

EXAMINER'S AMENDMENT

6. An extension of time under 37 C.F.R. § 1.136(a) is required in order to make an examiner's amendment, which places this application in condition for allowance. During a telephone conversation conducted on January 18, 2005, Leigh Thorne (under customer number 00826) requested an extension of time for 1 MONTH(S) and authorized the Director to charge Deposit Account No. 16-0605 the required fee of \$110.00 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Amendments to the Claims

7. The claims have been amended as follows:

a) Rewrite Claims 69 and 75 as follows:

---69. A method for altering the composition of VSP β as set forth in SEQ ID NO:1, said method comprising:

- a) introducing amino acid changes into SEQ ID NO:1 to create an engineered VSP β having increased nutritional value, wherein said amino acid changes increase levels of at least one nutritionally essential amino acid so that nutritionally essential amino acids are increased to represent at least 5%-10% of the total amino acid content of the engineered VSP β ; and
- b) assessing the conformation of said engineered VSP β based on its ability to bind with a set of antibodies, wherein said set of antibodies bind SEQ ID NO:1.---

Art Unit: 1652

---75. The method of Claim 69, wherein at least one of said nutritionally essential amino acids is methionine.---

Conclusion

8. Claims 69 and 75-79 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Kerr whose telephone number is (571) 272-0931.

The examiner can normally be reached on Monday through Friday, from 9:00am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathupura Achutamurthy can be reached on (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kathleen M Kerr
Primary Examiner
Art Unit 1652

January 18, 2005